

## REMARKS

In the Final Office Action dated March 26, 2004, the Examiner rejected claims 34, 39-41, 53, 54, 59-61, 64, 66, 68, 70, 71, 73, 75, 77, 78, 80, 82, 84, 85, 87, 89, 91, 92, 94, 96, 98, 99, 101, and 103-105 under 35 U.S.C. §103(a) as unpatentable over Gaines (U.S. Patent No. 5,961,582) in view of Hamilton et al. (U.S. Patent No. 6, 009,464); and rejected claims 35-38, 55-58, 65, 67, 72, 74, 79, 81, 86, 88, 93, 95, 100, and 102 under 35 U.S.C. §103(a) as unpatentable over Gaines in view of Hamilton et al. as applied to claims 34 and 54, and further in view of Priven et al. (U.S. Patent No. 5,327,559).

By this amendment, Applicants submit replacement drawings to comply with the requirements indicated in the PTO-Form 948 dated June 6, 1998. The replacement drawings re-label Figs. 2 and 3 as FIGs. 2, 2A, 2B, 3, and 3A. Further, to ensure consistency between Applicant's specification and the replacement figures, Applicants propose to amend the specification to identify the figures based on their new respective headings (i.e., Fig. 2A, 3A, etc.). Because the changes merely are for format purposes and make no substantive changes and no new matter has been added, Applicants request that the changes be entered.

In view of following remarks, Applicants respectfully traverse the rejections under 35 U.S.C. § 103(a).

### **I. Claim Rejections Under 35 U.S.C. § 103(a)**

The rejection of claims 34-41, 53-61, 64-68, 70-75, 77-82, 84-89, 91-96, and 98-105 under 35 U.S.C. § 103(a) is respectfully traversed for the following reasons.

**A. The Rejection of Claims 34, 39-41, 53, 54, 59-61, 64, 66, 68, 70, 71, 73, 75, 77, 78, 80, 82, 84, 85, 87, 89, 91, 92, 94, 96, 98, 99, 101, and 103-105.**

Regarding claims 34 and 54, the Examiner asserts that Gaines discloses, *inter alia*, “sending (transfer) a portion of the code (transferable program 302 including elements of user interface 203) from the first program to the second program (from first to second server hosts); and running the portion of the code by the second program on the second abstract computing machine (execute program 302 at second server host).” *See Office Action, pages 2-3, ¶ 3.* Further, the Examiner states that Gaines teaches “the second/first program has a function (program 302 in each server host computer 101), invoking the function by the first/second program (for execution on a server host computer 101). *See Office Action, page 5, lines 14-16.* Further, the Examiner admits that Gaines does not teach “stub code obtained from the second abstract computing machine.” *See Office Action, page 3, lines 4-5.* The Examiner relies on Hamilton et al. to make up for the deficiencies of Gaines.

Applicants respectfully submit that the Examiner has improperly applied Hamilton et al. as a prior art reference. Pursuant to 35 U.S.C. § 103(c), subject matter developed by another person, which qualifies as prior art only under subsection (e) of section 102 of 35 U.S.C., shall not preclude patentability where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. This change to 103(c) applies to all utility patent applications filed on or after November 29, 1999, including CPAs filed under 37 C.F.R. § 1.53(d). Hamilton et al. qualifies as prior art only under 102(e) (Hamilton et al. was filed before the effective filing date of May 22, 1998 of the present application, but issued after the effective filing date). Additionally, both

Hamilton et al. and the present application are assigned to Sun Microsystems, Inc, as indicated in the Assignment recorded on June 13, 1996 on reel 00812 and frame no. 0864. Accordingly, 35 U.S.C. § 103(c) is applicable, and Hamilton et al. cannot preclude patentability under 35 U.S.C. § 103(a), leaving Gaines as the only valid reference.

Notwithstanding the issues set forth above, Applicants also traverse the Examiner's interpretation of Gaines. Contrary to the Examiner's assertion, Gaines does not disclose sending a portion of the code contained in a program. Instead, Gaines discloses transferring a program (302) to remote computers for execution on those computers. As indicated by the Examiner, the transfer program (302) includes elements of the user interface (203) program. The Examiner associates the transfer program (302) with code contained in a program, and the portion of the code as the user interface elements (203) included in the transfer program (302). Under these analogies, Gaines cannot disclose sending a portion of the code contained in a program, as asserted by the Examiner because the portion would have to be associated with the transfer program (302). Further, as alluded by the Examiner, the user interface elements are portions of the user interface program (203). Accordingly, the Examiner's interpretation of Gaines as set forth in the Office Action do not support the rejection of claims 34 and 54. Further, if the Examiner asserts that the elements of the user interface program are equivalent to a portion of the code, such assertions are not supported by Gaines because the reference does not show sending a portion of code based on stub code obtained from the second abstract computing machine.

Claims 39-41 and 59-61 depend from claims 34 and 54, respectfully. As explained, the cited art does not support the rejection of claims 34 and 54. Accordingly, it follows that the cited art also does not support the rejection of claims 39-41 and 59-61 and Applicants request that the rejection of these claims be withdrawn and the claims allowed.

The Examiner rejects claim 53 for the same reasons set for claim 34. As explained, the cited art does not support the rejections of claim 34. Accordingly, in light of the remarks set forth above in connection with this claim, Applicants also assert that the cited art does not support the rejection of claim 53 and requests that the rejection of this claim be withdrawn and the claim allowed.

The Examiner also asserts that claims 64, 78, and 92 are “covered by claim 34 except that the stub code being a stub class instance.” Notwithstanding the issue of a stub class instance, it follows that the art cited by the Examiner does not support the rejection of claims 64, 78, and 92 for at least the same reasons set forth in connection with claim 34. Accordingly, Applicants request that the rejection of these claims be withdrawn. Further, the Examiner asserts that Gaines teaches “returning results (output, col. 10, lines 55-62).” See *Office Action*, page 4, lines 13-14. Applicants disagree with the Examiner’s interpretation of this reference. The “output” referenced by the Examiner in the Office Action is merely associated with virtual output device 173 and its operations in providing output across connection 208, which interconnects the two remote systems. Contrary to the Examiner’s assertions, this cited text of Gaines merely describes the general input/output operations in a virtual environment and does not suggest that the results of an executed portion of code its returned to another

system. Therefore, Gaines does not support the rejection of claims 64, 78, and 92 and thus should be withdrawn.

Claims 66, 68, and 70; 80, 82, and 84; and 94, 96, and 98 depend upon claims 64, 78, and 92, respectfully. As explained above, the cited art does not support the rejection of claims 64, 78, and 92. Accordingly, it follows that the cited art also does not support the rejection of claims 66, 68, and 70; 80, 82, 84, 94, 96, and 98 and Applicants request that the rejection of these claims be withdrawn and the claims allowed. Moreover, Applicants disagree with the Examiner's interpretation of Gaines. The Examiner asserts that Gaines "teaches function (service), parameter (permission 147)." Not only is this interpretation ambiguous (i.e., Applicants fail to see the correlation between the Examiner's statement and the claimed invention), the permissions quoted by the Examiner are not parameters. Instead, Gaines uses resource filters to "scrutinize each request for virtual resources from virtual applications 143 for any violation of a set of virtual permissions 147." Thus, the permissions are merely rules used to control access to the virtual resources. Also, the "permissions" are not used to invoke a function. Thus, it follows that the reference does not support the Examiner's assertions, nor the rejection of claims 66, 73, 80, 87, 94, and 101.

Additionally, the Examiner rejected claims 71, 85, and 99 for the same reasons set for claim 64. See *Office Action, page 4, lines 26-27*. Accordingly, in light of the remarks set forth above in connection with claim 64, Applicants assert that the cited art also does not support the rejection of claims 71, 85, and 99 and requests that the rejection of these claims be withdrawn and the claims allowed.

Claims 73, 75, and 77; 87, 89, and 91; and 101 and 103-105 depend upon claims 71, 85, and 99, respectfully. As explained above, the cited art does not support the rejection of claims 71, 85, and 99. Accordingly, it follows that the cited art also does not support the rejection of claims 73, 75, 77, 87, 89, 91, 101, and 103-105 and Applicants request that the rejection of these claims be withdrawn and the claims allowed.

Moreover, although Applicants submit that there is no motivation to combine Gaines and Hamilton et al., as noted above, Hamilton et al. cannot be applied as prior art pursuant Section 103.

Because Gaines does not support the rejections of claims 34, 39, 40, 53, 54, 59, 60, 64, 66, 68, 70, 71, 73, 75, 77, 78, 80, 82, 84, 85, 87, 89, 91, 92, 94, 96, 98, 99, 101, and 103-105, and because Hamilton et al. is not prior art pursuant to 35 U.S.C. § 103(c), the rejection of these claims under 35 U.S.C. § 103(a) should be withdrawn and the claims allowed.

**B. The Rejection of Claims 35-38, 55-58, 65, 67, 72, 74, 79, 81, 86, 88, 93, 95, 100, and 102.**

Claims 35-38 and 55-58 depend upon claims 34 and 54, respectfully. As explained above, Gaines does not support the rejection of claims 34 and 54. Accordingly, it follows that the cited art also does not support the rejection of claims 35-38 and 55-58 and Applicants request that the rejection of these claims be withdrawn and the claims allowed. Moreover, because Hamilton et al. is not prior art pursuant to 35 U.S.C. § 103(c), Applicants submit that the rejection of these claims are improper and should be withdrawn.

Additionally, in an attempt to supplement the teachings of Gaines, the Examiner asserts that Priven et al. teaches “sending an object (CIP object 702) containing a

portion of code (action 706) of one program to another program for remote execution in a distributed execution environment.” See *Office Action*, page 5, lines 4-6. Applicants disagree with the Examiner’s assertions. The action attribute 706 is not a portion of code. Instead it is attribute information. Priven et al. does not teach or suggest sending an object containing a portion of code, much less using that portion to invoke a function or process in the remote system. Accordingly, the cited art does not support the rejection of claims 35 and 55 and Applicants respectfully request that the rejection be withdrawn and the claims allowed.

Further, In rejecting claims 36 and 56, the Examiner asserts that “Gaines as modified teaches (Priven) sending data (parameters 708) for remote execution.” See *Office Action*, page 5, lines 11-12. Although Priven et al. discloses parameters that are sent with the CIP object to a remote system, the reference falls short of disclosing that the CIP object, or any portion of code, is sent as a parameter. Moreover, Priven et al., Gaines, and Hamilton et al. alone or in combination, do not teach or suggest that a function or process is invoked using the portion of code. In fact, Priven et al. states that the CIP object itself is executed by the remote system (i.e., ACM 1112). See Priven et al., col. 10, lines 51. Because the cited references fail to support the rejection of claims 36 and 56, Applicants respectfully request that the rejection of these claims be withdrawn and the claim allowed.

Additionally, the Examiner asserts that “Priven teaches sending an object (CIP object 702) containing a portion of code (action 706) of one program to another program for remote execution in a distributed execution environment.” Further, the Examiner states that “Priven teaches that, between two distributed programs, code (action 114) is

part of an object (CIP object 702), passing the object as a parameter to a function (remote processing by application 1116). See *Office Action*, page 5, lines 4-6 and 17-19. Applicants respectfully disagree with the Examiner interpretations of Gaines and Priven et al.

Priven et al. teaches a system for providing a communication interface packet (CIP) in the form of an object. The CIP object is sent from one system to another remote systems as a flat file for subsequent use. Contrary to the Examiner's assertions, the CIP object is not passed as a parameter to a function. Instead, the CIP object is encapsulated with its own methods for data and attributes included in the CIP object. The attributes may include an action, object, and parameters. See Priven et al., *Abstract*, col. 3, lines 31-52, and col. 9, line 65 to col. 10, line 42. When the CIP object is transmitted to a remote system 1104, an ACM 1112 in the remote system executes the CIP object causing application 1116 (also included in remote system 1104) to perform an action of the object. Nowhere does Priven et al. disclose passing the object as a parameter of a function. Accordingly, this reference does not make up for the deficiencies of Gaines. In addition, Hamilton et al. fails to make up for the deficiencies of Gaines or Priven et al.

In light of the above remarks, the rejection of claims 37 and 57 is not supported by the cited art. Accordingly, Applicants request that the rejection of these claims be withdrawn and the claims allowed.

Also, the Examiner asserts that Priven et al. discloses "passing the object as a parameter to a function (remote processing by application 1116) and returning the object as a result of (send response to sending system)." See *Office Action*, page 5,



*lines 18-20.* Applicants disagree with the Examiner's interpretation of this reference. Contrary to the Examiner's assertions, Priven et al. does not teach or suggest returning the object as a result of an invocation of a remote function. Instead, the reference merely discloses returning results to a sending system. Therefore, the cited art does not support the rejection of claims 38 and 58 and Applicants respectfully request that it be withdrawn and the claims allowed.

The Examiner rejects claims 65, 72, 79, 86, 93, and 100, and claims 67, 74, 81, 88, 95, and 102 for the same reasons set for claims 35 and 38, respectively. As explained, the cited art does not support the rejections of claims 35 and 38. Accordingly, in light of the remarks set forth above in connection with these claims, Applicants also assert that the cited art does not support the rejection of claims 65, 67, 72, 74, 79, 81, 86, 88, 93, 100, and 102, and requests that the rejection of these claims be withdrawn and the claims allowed.

## **II. Conclusion**

Applicants respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, changing the Figures and corresponding specification. Applicants submit that the proposed amendments of the specification and figures do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships described are present or in the specification as original filed.

Further, Applicants respectfully request that this response under 37 C.F.R. § 1.116 be considered by the Examiner, placing the pending claims in condition for allowance.

Furthermore, Applicants respectfully point out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that proper consideration of this allow the Applicants to reply to the final rejections and place the application in condition for allowance.

Finally, Applicants submit that the entry and consideration of the response would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that this claimed invention is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

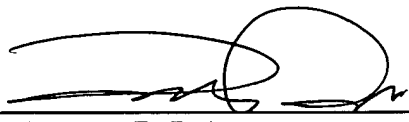
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: May 17, 2004

By: \_\_\_\_\_

  
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